

POLICY PROPOSALS ON RIGHTS TO WATER AND SANITATION IN UGANDA



1.0 Introduction

The right to water is indispensable to leading a life of human dignity and is a prerequisite for the realization of other human rights. It is a right that entitles every person to have sufficient, clean, safe, acceptable, accessible and affordable water for personal and domestic use. Water is at the forefront of sustainable development and a key factor for socio-economic development and food production. The former Secretary-General of the UN, Kofi Annan, noted that: 'Access to water is a fundamental human need and, therefore, a basic human right. Contaminated water jeopardizes both the physical and social health of all people. It is an affront to human dignity'. His Royal Highness, the Prince of Netherlands observed that: 'the flow of water symbolizes the cycle of life. "When the flow stops, so does life itself'. Many advocacy groups have noted poor access to safe water and adequate sanitation are

a contributory factor to the high infant, child and maternal mortality rates in Uganda.

Increasing access to clean water and improved sanitation is linked to higher productivity of the population, improved health of women and children and reduction in household chores of women which, in turn, frees time for girl child education. Studies have indicated that improved sanitation would cut the risk of infant mortality by 40 percent in Uganda. Therefore, recognizing the importance of clean and safe water and sanitation, various approaches should be employed to ensure that this fundamental right is recognized and achieved.

1.1 Water and sanitation contextual Analysis

According to the WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation (JMPWWS), 37% per cent of



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the developing world's population of 2.5 billion people lack improved sanitation facilities and are thus forced to dispose their excreta in unimproved and unsanitary conditions. Over 780 million people still use unsafe drinking water sources. Inadequate access to safe water and sanitation services, coupled with poor hygiene practices, kills and sickens thousands of children every day and leads to impoverishment and diminished opportunities for thousands more. According to Water Aid, 33% of Uganda's population does not have access to safe water, and 52% of people are without sanitation. **Infant mortality** stands at 130 in 1,000, and 26,000 children under the age of five die every year from diarrheal diseases associated with unsafe water and poor sanitation. Although in Uganda there exists the legal and Policy framework for the implementation of water and sanitation, there are gaps that hinder its effective implementation. As a result, the rural and urban poor accessing, safe and clean water remains a problem.

1.2 Process of development of policy proposals on rights to water and sanitation

Having realized the water and sanitation problem has continued to bite the poor in both urban and rural settings in Uganda, despite the government and private sectors efforts' to extend these vital services to the country, NAPE with financial support from UWASNET in 2012, reviewed the legal and policy framework for the implementation of the right to water and sanitation in Uganda with a view of establishing and documenting gaps therein and to propose policy changes that will enable Ugandans access clean and safe water and sanitation. NAPE held two categories of meetings; the first category involved the technical team scrutinizing legal and policy documents and came up with the draft proposals. The second category was a dialogue meeting with key stakeholders in WASH to validate and incorporate their views and these stakeholders included, academicians, community members from water stressed areas, technocrats and CSOs working in water, sanitation and hygiene sector (WASH) from the districts of Mukono, Luwero, Rukungiri and Kampala. Legal and policy framework documents the technical team reviewed and discussed were Water Policy (1999), Water Act (1997), Local Government Act Cap 243, Public Health Act cap 281, NEMA, National Water and Sewerage act 1995.

2.0 Analysis of legal and policy framework for water and sanitation in Uganda

2.1 The National Water Policy (1999):

The Uganda National Water Policy was developed in 1999 with a major aim of giving a direction in which water resources can be managed in ways that is sustainable and beneficial for all. It was developed in recognition to social value of water, while at the same time, giving much attention to its economic value. It was developed within the context of international agenda, regional obligation and national policy setting. One of the objectives this policy is to manage and develop the water resources of Uganda in an integrated and sustainable manner, and to ensure sustainable provision of safe water **within easy reach** and hygienic sanitation facilities.

Gap identified

The policy does not indicate the distance one would walk or time taken to reach the water source to qualify **within easy reach**, however, international standards recommend **one kilometer (1KM)** in rural area **and 200 meters (0.2 KM)** in urban area from one's dwelling to the source of clean and safe water or maximum of 30minutes walk.

The indicators do not take into consideration people with special needs e.g. the physically disabled, gender issues and terrain of the area. What is within easy reach for a non disabled person is not within easy reach to a person with disabilities. Also the number of times women or children walk to collect water for domestic use for instance large families of ten members. Again, the time taken to walk one Kilometer along hilly areas or on the slopes of mountains cannot be compared with the time one takes to walk one Kilometers along flat areas given the fact that each person needs at least 20 litres of water per day.

Recommendation

- The water policy should indicate the time and distance taken to reach water point from ones dwelling taking into account one's physical ability, gender issues and the terrain of the area.

Section 8.4.4 of water Policy states that "for this policy to be implemented it must be widely disseminated and discussed and all concerned parties made aware of the policy objectives, principles, strategies, procedures and desired impact'

Gap identified

The policy does not state or even suggest the mode of dissemination of policy issues and other required information on water issues. NAPE study findings on '**Status of Rights to Water and Sanitation in Uganda 2012**' indicated that Citizens are less aware that access to clean and safe water and sanitation is their fundamental human right, and there were limited awareness about policies, laws and their enforcement mechanisms. As a result there is little effort on part of service providers to respond to community needs.

Recommendation

- This section of the policy should put in place provisions for how and where communities to access information and policy documents from service providers and the Government.

.The policy should indicate when government should periodically print, publish and disseminate to all stakeholders Water Policies and Laws and WASH related information in the major local languages and also create awareness among all the stakeholders about the compliance requirements of the policies and laws. This will strengthen citizens' capacity to engage duty bearers and service providers.

- The policy should also clearly indicate mechanisms in the policy that empowers water users to demand for information and accountability from service providers and local leaders

they sell piped water to the public.

2.2 The water act Cap 152

The Water Act is the principal law for the water sector which makes provisions for use, protection, management and supply of water resources and sanitation. Some of objectives of the Act which are: to promote the rational management and use of the waters of Uganda; to promote the provision of a clean, safe and sufficient supply of water for domestic purposes to all persons; to control pollution and to promote the safe storage treatment, discharge and disposal of waste which may pollute water or otherwise harm the environment and human health. **Section 50 and 51 of this act** provides for Water user groups and water and sanitation committee and Water user associations respectively and allows this association to charge user fees for the maintenance of the water system,

Gap identified

The water Act does not give the Water Users Association power to fix water charges for water vendors. Study conducted by NAPE in 2012 found that the water vendors in Mukono and Luwero were charging communities between 500UGX to 700UGX per twenty litres jerry can yet they get this water from the source freely. In the same study respondents from Mukono indicated a twenty litre jerry can of piped water cost between 100 and 300UGX which was considered to be too high for people and as a result they resort to getting water for their domestic needs from unsafe sources. High water prices negatively affects accessibility and affordability pillars of the right to safe and clean water

Recommendation

- The Government should include in the policy/ water act a section that empowers Water Users Associations in consultation with the village local councils to determine and set water prices at which vendors sell to communities.

The Water Act Cap 152 also gives power to the Minister to determine tariffs, fees. In the 2012/2013 Financial Year National Budget. The Minister of Finance reinstated the 18% Value Added Tax (VAT) on piped water. She said the reinstated tax will contribute over Shs 24 billion to the national treasury

Gap identified

The introduction of this tax will lead to high costs of piped water and erode accessibility and affordability of water for the majority of consumers. More people will not be able to access water, thereby reducing the water coverage in the country. The poor and low income earners will resort to collecting water for drinking and other domestic use from unsafe sources

Recommendation

- Include in the policy a Zero rating of Value Added Tax on water tariffs to reduce the cost of access to piped water for the poor. The government should also in consultation with local and leaders set maximum price for vendors at which

Section 94 of the water Act empowers water authority to fix charges for the services provided. For example section 94 sub section 1 and 4 which says (1) An authority may, by regulations and with the approval of the Minister—fix rates with respect to land within the authority's area; fix charges, fees or deposits for commodities, services or facilities provided or to be provided by the authority; fix penalties for failure to pay any amount due to the authority when it falls due and payable and rates or interest on outstanding amounts due to the authority. An authority may levy and demand rates, and demand payments of charges, fees, deposits, interests or penalties fixed under this section (4) A water authority may, with the approval of the Minister, establish— charges to be paid per unit of quantity of water supplied by metered or computed quantity; minimum charges to be paid for water supplied; rent to be paid for a meter installed by the water authority; and the time within which charges and rent shall be paid, and the terms and conditions of payment, including the payment of deposits, by consumers generally or by any class of consumers.

But section five(5) of the National Water and Sewerage Corporation Act 1995, Cap 317 empowers the corporation to set tariffs and charges, make and levy rates and fix terms and conditions for work done or services, goods or information supplied by it. Statutory Instrument 2002 No. 23, stipulates that NWSC Water and Sewerage rates shall be subject to annual indexation against the Domestic Price Index, exchange rate, foreign price index and electricity tariff so as to maintain real value of the Tariff

Gap identified

The two laws contradict one another. Section 59 of the water act requires the water authority to seek approval from the Minister, while section five (5) of the National Water and Sewerage Corporation Act 1995, Cap 317 empowers the corporation to set tariffs and charges. In case of grievances which one can be used for arbitration?

The corporation is also mandated to determine Bulk Water Supply tariff to be levied on authorized operators who will re-sell the water to consumers through a piped water distribution network. The National Water and Sewerage Corporation should determine the tariffs depending on the area of supply but shall not exceed 2,108UGX shillings per cubic meter. The policy does not state the price at water is to be sold to public. Water vendor are left to determine water prices. Study that was conducted by NAPE in 2012, found that piped water in Mukono and Kampala was being sold to communities between 100 and 300UGX. A simple calculation shows that water vendor gets a profit of more than 100%.

Recommendations

- The Water Act should have a section that provides for subsidies for the rural and urban poor to enable them

access safe and clean water. This Act should also give the Minister power to determine uniform water price at which communities can buy from vendors. The Act should also put in place compliancy & monitoring mechanism as well as set penalty for non compliancy.

2.3 The National Environment Management Policy (1994):

The objective of this Policy is to ensure sustainable social and economic development which maintains environmental quality and resource productivity on a long-term basis that meets the needs of the present generations without compromising the ability of future generations to meet their own needs. **The National Environment (Standards for Discharge of Effluent into Water or on Land) Regulations, S.I. No 5/1999**, (Under section 26 and 107 of the National Environment Act, Cap 153). They set standards for effluent or waste water before it is discharged into water and require every industry or establishment to install at its premises, anti-pollution equipment for the treatment of effluent chemical discharge emanating from the industry or establishment among others

Gaps identified

This policy explicitly recognizes those effluents emanating from industries and other establishments but is silent to those that are discharged through underground seepage from deep pit latrines, open defecation and other pollution from human wastes and sewage from damaged sewer pipelines, that contaminate water sources and leading to bacterial diseases.

Recommendation

- The policy should put in place a community participatory monitoring and enforcement mechanism that empowers communities to ensure that polluters comply with the established norms and systems of effluent disposal into water bodies.
- The policy should also set a deterrent penalty for uncontrolled flow of sewage, underground seepage and pollution from human wastes especially from open defecation into water bodies.

2.4 The Local Governments Act (1997) Cap 243

This Act implements the decentralization Policy 1994 and has provisions that are relevant to water resources management. It provides the scope of service responsibilities for lower level local councils, sub counties and divisions. These are specified under part 2 of the second schedule. Local governments are mandated to provide and maintain water supply in liaison with the Ministry responsible for natural resources (Ministry of Water and Environment) where applicable. Part 3 of the second Schedule prescribes the functions for which the Urban Councils are responsible. Some of the functions relevant to water resource management are: providing sanitary services, and providing water services outside the jurisdiction of

National Water and Sewerage Corporation.

Gap identified

Most local governments have failed to provide clean and safe water and sanitation to their constituencies because of inadequate funding from the central government and low resources base .A study conducted by NAPE in 2012 indicated that majority of the bore holes in Luwero that were constructed by the Government broke down and they have not been repaired due to lack of funds and technicians, hence reducing access to water in water stressed communities.

Recommendation

- The Government of Uganda should commit enough resources of at least 1% of total budget explicitly to water and sanitation if it is to adequately adhere to international agreements it has signed including millennium development goal 7 that require provision of clean and safe water and sanitation.

2.5 Public Health Act 1935 CAP 281 section 55, require local authorities to maintain cleanliness and prevent nuisance: and sates *'Every local authority shall take all lawful, necessary and reasonably practicable measures for maintaining its area at all times in clean and sanitary condition, and for preventing the occurrence in the area of, or for remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health and to take proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition'*.

Section 57 of the Puplic Health Act mentions what constitutes nuisance such as any collections of water, sewage, rubbish, refuse, ordure, or other fluid or solid substances which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or domestic animals, or of insects or of other agents, which are known to carry such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites; Also any cesspit, latrine, urinal, dung pit, or ash pit found to contain any of the immature stages of the mosquito. Section 60 states the penalty of 400 UGX to be paid by a person who causes the nuisance.

Gap identified

The penalty of 400 UGX as set in the act is not deterrent enough to enforce compliancy with the established laws and policies to sanitation

Recommendation

- There is a need to review the penalty stated in section 57 and set it to at least 1,000,000 UGX and imprisonment of 2 years or a penalty of 1,000,000 and community work
- There is also need to put in place a national sanitation specific policy.

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